

REMARKS

Applicants have received and carefully reviewed the Office Action mailed July 13, 2004. Claims 1-62 are pending, with claims 8, 10, 12, 17, 20-28, 36, 41, 44-52 and 54-62 withdrawn from consideration due to restriction. Reconsideration and reexamination are respectfully requested.

As a preliminary matter, Applicants bring to the Examiner's attention that formal drawings were submitted on July 26, 2001, but there has been no indication of approval of the drawings by the Examiner or the Official Draftsman. Applicants request that the Examiner/Official Draftsman indicate approval or non-approval of the formal drawings with the next PTO communication.

Claim Rejections—35 U.S.C. § 103

Claims 1-7, 9, 11, 13-16, 18, 19, 29-35, 37-40, 42, 43 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dewey, Jr. (U.S. Patent No. 3,950,101) in view of Stafford (U.S. Patent No. 5,504,575), Kumar (U.S. 2003/0034281 A1) and Jorgensen et al. (U.S. Patent No. 5,835,645). After careful review of the cited references, Applicants respectfully disagree.

The Examiner states that Dewey, Jr. discloses "an optical filter (14 or 114) positioned to receive light from said light source, the filter having a plurality (two or more) of bandpass regions (viz. 15, 17)." This understandable though incorrect assertion is based on a subtle difference in the way Dewey, Jr. and the present application use terminology. The waveband selector means (14 or 114) of Dewey, Jr. does not correspond to the filter of the claimed invention. Waveband selector means (14 or 114) permit the alternating use of filter elements 15 and 17 or 16 and 18, which are narrow spectral band filters (see column 4, lines 62-63). In

contrast, the filter of claim 1 is an optical filter with a plurality of bandpass regions, e.g., a single multiband filter. Such a filter is not disclosed by Dewey, Jr.

The fact that the device of Dewey, Jr. uses a waveband selector means that permits alternate use of a narrow band filters rather than a multiband filter presents other problems for a *prima facie* case of obviousness.

For example, since the waveband selector of Dewey, Jr. permits the selection of only one narrow waveband at a time and consequently the light passing through is of a single frequency, there is no motivation to include the optical encoding unit of Stafford. The reason for using the unit of Stafford is to selectively transmit a portion or selective portions of the spectrum (column 1, lines 62-64); the waveband selector (14 or 114) of Dewey, Jr. transmits only one portion of the spectrum at a time and thus cannot use the unit of Stafford.

Kumar supplies no motivation for modifying Dewey, Jr. by including the disclosed integrating chamber. Kumar discloses that “[t]he integrating chamber is used in the illustrated embodiment to provide a uniform distribution of light to the various monochromater systems”. As can be seen in Figure 8, the integrator 89 provides light to several systems 90-96 simultaneously. Dewey, Jr. discloses the use of mirrors 40 to supply the light to its several sampling cells 20, 21, 22 in alternation. Applicants can think of no place in the system of Dewey, Jr. where the integrating chamber of Kumar may be placed where its effects would optimize or improve the performance of the system of Dewey, Jr. As there is no motivation to include an additional component where no benefit is suggested, Applicants respectfully submit that there is no motivation for this modification.

Applicants therefore believe that the cited combination cannot be relied upon to form the suggested rejection under 35 U.S.C. §103(a), and claims 1-7, 9, 11, 13-16, 18, 19, 29-35, 37-40, 42, 43 and 53 are patentable thereover.

In light of the above comments, claims 1 and 29 are believed to be in condition for allowance. Therefore, it is requested that withdrawn claims 8, 10, 12, 17, 20-28, 36, 41 and 44-52 also be considered and allowed in light of their dependence from allowable generic claims.

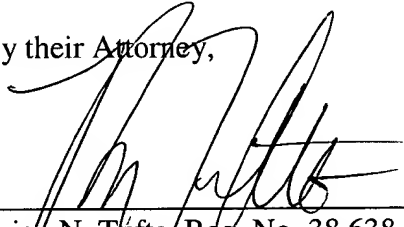
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,

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